

Dear Senators TIPPETS, Patrick, Schmidt, and
Representatives HARTGEN, Anderson, King:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Department of Administration - Group Insurance:
IDAPA 38.03.01 - Rules Governing Group Insurance (Docket No. 38-0301-1401) - Temporary and Proposed Rule.

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 08/22/2014. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 09/19/2014.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Commerce & Human Resources Committee
FROM: Principal Legislative Research Analyst - Brooke Brouman
DATE: August 05, 2014
SUBJECT: Department of Administration - Group Insurance

IDAPA 38.03.01 - Rules Governing Group Insurance (Docket No. 38-0301-1401) - Temporary and Proposed Rule

The Department of Administration submits notice of temporary and proposed rulemaking relating to its Rules Governing Group Insurance. The Department states that the rule revisions incorporate changes in federal law governing health plan eligibility and the expiration of the Medicare prescription drug reimbursement program, which are also the justifications cited for the temporary adoption of the rule.

According to the Department, there is no fiscal impact as a result of the rule change. Negotiated rulemaking was not conducted because the proposed rule will provide conformity with federal law.

We note only that Section 67-5223(1), Idaho Code, requires that "[i]f the proposed rulemaking is based upon a requirement of federal law or regulation, a copy of that specific federal law or regulation shall accompany the submission to the director of legislative services." The Department did not provide a copy of the federal law that prompted its proposed rulemaking.

The proposed rule is authorized pursuant to Section 67-5761, Idaho Code.

cc: Department of Administration - Group Insurance
Teresa Luna

IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.03.01 - RULES GOVERNING GROUP INSURANCE

DOCKET NO. 38-0301-1401

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2014.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 67-5761, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Revisions incorporate changes in federal law governing health plan eligibility and the expiration of the Medicare prescription drug reimbursement program.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1) (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Revisions incorporate changes in federal law governing health plan eligibility and the expiration of the Medicare prescription drug reimbursement program.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fee or charge is being changed or imposed through this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is no fiscal impact from the rule change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rule change will provide conformity with federal law.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

No documents are being incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Amy Johnson at (208) 332-1865.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2014.

DATED this 30th day of June, 2014.

Teresa Luna, Director
Department of Administration
650 W. State St.
P.O. Box 83720
Boise, Idaho 83720-0013
Phone: (208)332-1826 / Fax: (208)334-2307

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 38-0301-1401
(Only those Sections being amended are shown.)**

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 38.03.01, "Rules Governing Group Insurance." (3-29-10)

02. Scope. Pursuant to Section 67-5761, Idaho Code, these rules set forth eligibility for the state of Idaho's group insurance, ~~and eligibility and procedures for reimbursing a Medicare eligible retiree for his out of pocket expenses for prescription medications when he has exceeded the initial Medicare prescription medication coverage amount.~~ (3-29-10)(7-1-14)T

(BREAK IN CONTINUITY OF SECTIONS)

~~**003. ADMINISTRATIVE APPEALS.**~~

~~The provisions found in Section 040 of these rules shall govern administrative appeals of the director's denial to the Group Insurance Advisory Committee.~~ (3-29-10)

~~**004. EXEMPTION FROM ATTORNEY GENERAL'S ADMINISTRATIVE PROCEDURE RULES FOR CONTESTED CASES.**~~

~~Pursuant to Section 67-5206(5), Idaho Code, except as provided in these rules, the procedures contained in Subchapter B, "Contested Cases," of the rules promulgated by the attorney general as IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 100 through 799, do not apply to appeals from denied petitions.~~ (3-29-10)

~~**005. REASONS FOR EXEMPTION FROM ATTORNEY GENERAL'S ADMINISTRATIVE PROCEDURE RULES.**~~

~~To prevent unnecessary delays and increased costs in the determination of whether a Medicare eligible retiree or his Medicare eligible dependent is eligible to receive reimbursement of out of pocket expenses for prescription medications, the rules of procedure in this chapter are adopted to promote the speedy resolution of appeals from denied petitions.~~ (3-29-10)

~~**003. -- 005. (RESERVED)**~~

(BREAK IN CONTINUITY OF SECTIONS)

011. DEFINITIONS.

01. Child. Child includes a natural child, stepchild, adopted child or child in the process of adoption from the time placed with the eligible active employee or eligible retiree. The term also includes a child legally

dependent upon the eligible active employee, the eligible active employee's spouse, the eligible retiree or the eligible retiree's spouse for support where a normal parent-child relationship exists with the expectation that the eligible active employee or eligible retiree will continue to rear that child to adulthood. The definition does not include a child where one or both of that child's natural parents live in the same household with the eligible active employee or eligible retiree, as a parent-child relationship is not deemed to exist even though the eligible active employee, eligible retiree or their spouses provide support. (3-29-10)

- 02. Date of Hire.** The first day an individual begins work for the state or his employer. (3-29-10)
- 03. Director.** The director of the Department of Administration. (3-29-10)
- 04. Eligible Active Employee.** An officer or employee of a state agency, department or institution, including a state official, elected official or employee of another governmental entity which has contracted with the state of Idaho for group insurance coverage, who is working twenty (20) hours or more per week, and whose term of employment is expected to exceed five (5) consecutive months. (3-29-10)
- 05. Eligible Dependent of an Eligible Active Employee.** An eligible dependent of an eligible active employee who is enrolled in group insurance, is a person who is any of the following: (3-29-10)
- a.** The spouse of an eligible active employee. (3-29-10)
 - b.** A child up to the age of twenty-six (26) of an eligible active employee or an eligible active employee's spouse, ~~unless the dependent child is eligible to enroll in their own employer based group coverage.~~ (3-21-12)(7-1-14)T
- 06. Eligible Dependent of an Eligible Retiree.** An eligible dependent of an eligible retiree who is enrolled in group insurance, is a person who is any of the following: (3-29-10)
- a.** The non-Medicare-eligible spouse of an eligible retiree. (3-29-10)
 - b.** A child up to the age of twenty-six (26) of an eligible retiree or an eligible retiree's spouse, ~~unless the dependent child is eligible to enroll in their own employer based group coverage.~~ (3-21-12)(7-1-14)T
- 07. Eligible Retiree.** A person who is any of the following: (3-29-10)
- a.** An officer or employee of a state agency, department or institution, including state and elected officials, who retired on or before June 30, 2009, and who is not Medicare eligible. (3-29-10)
 - b.** An officer or employee of a state agency, department or institution, including state and elected officials, who meets all of the following: (3-29-10)
 - i.** He retires after June 30, 2009, and retires directly from state employment. (3-29-10)
 - ii.** He is not Medicare eligible. (3-29-10)
 - iii.** He was hired on or before June 30, 2009, and has at least twenty thousand eight hundred (20,800) credited state service hours on or before June 30, 2009, is reemployed, reelected or reappointed after June 30, 2009, and accrues an additional six thousand two hundred forty (6,240) continuous credited state service hours. (3-21-12)
 - c.** A person receiving benefits from a state of Idaho retirement system who has at least twenty thousand eight hundred (20,800) credited state service hours in a state of Idaho retirement system, and who is not Medicare eligible. (3-21-12)
- 08. Group Insurance.** Medical, dental, vision, life, disability and other types of insurance coverage provided through a carrier who has contracted with the Office of Group Insurance to provide such insurance to eligible active employees, eligible retirees and their dependents. (3-29-10)

09. Health Care Coverage. Medical insurance coverage provided through a carrier who has contracted with the Office of Group Insurance to provide medical insurance to eligible active employees, eligible retirees and their dependents. (3-29-10)

10. Medicare Coverage Gap. Under a Medicare-supplement plan, there is a gap in coverage for prescription medications between the initial coverage limit (two thousand seven hundred dollars (\$2,700) in 2009) and the catastrophic coverage threshold (four thousand three hundred fifty dollars (\$4,350) in 2009). Within this gap, the Medicare recipient pays one hundred percent (100%) of the cost of prescription medications before catastrophic coverage begins. (3-29-10)

11. Medicare Eligible. A person who is age sixty-five (65) or older and qualifies to receive Medicare. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

~~034. -- 039. (RESERVED)~~

~~**040. MEDICARE PRESCRIPTION MEDICATION REIMBURSEMENT PROGRAM.**~~

~~Effective January 1, 2010 through December 31, 2013, any Medicare-eligible retiree or his Medicare-eligible dependent spouse, who is no longer eligible for health care coverage due to Medicare eligibility, may petition the director for reimbursement of prescription medications up to, but not to exceed, two thousand dollars (\$2,000) per calendar year, per Medicare-eligible retiree and per Medicare-eligible dependent spouse. (3-21-12)~~

~~**01. Eligibility for Medicare Prescription Medication Reimbursement.** If an eligible retiree or his eligible dependent spouse meet the following conditions, he can request reimbursement for his respective out-of-pocket expenses for prescription medications. Each individual must meet all criteria each calendar year: (3-29-10)~~

~~**a.** The Medicare-eligible retiree or his Medicare-eligible dependent spouse has met or exceeded the initial Medicare coverage limit for prescription medication expenses under his Medicare supplement plan. (3-29-10)~~

~~**b.** The Medicare-eligible retiree or his Medicare-eligible dependent spouse is in the Medicare coverage gap, and has paid two thousand dollars (\$2,000) or more out of pocket for prescription medications. (3-29-10)~~

~~**c.** The Medicare-eligible retiree's or his Medicare-eligible dependent spouse's total out of pocket prescription medication expenses have not exceeded the Medicare catastrophic coverage threshold. (3-29-10)~~

~~**02. Deadline to Request Reimbursement from the Director.** A Medicare-eligible retiree or his Medicare-eligible dependent spouse must submit a petition and a request for reimbursement to the director on or before March 31 of each year for the petition and request to be considered timely. (3-29-10)~~

~~**a.** All reimbursement requests for 2010 out-of-pocket prescription medication expenses must be received on or before March 31, 2011, and requests for 2011 out-of-pocket prescription medication expenses must be received on or before March 31, 2012, to be considered. Petitions and reimbursement requests received after March 31, 2011 (for 2010 expenses), and March 31, 2012 (for 2011 expenses), will be denied for being untimely. (3-29-10)~~

~~**03. Contents of the Petition and Reimbursement Requests.** The Medicare-eligible retiree's or Medicare-eligible dependent spouse's petition and reimbursement request shall specifically state the reasons why the director should grant the Medicare-eligible retiree's or the Medicare-eligible dependent spouse's petition and reimbursement request, including but not limited to evidence that the petitioner has met all of the eligibility criteria above. (3-29-10)~~

~~**a.** Reimbursement requests must include all of the following information on an itemized receipt or statement: (3-29-10)~~

- ~~i. Date of service. (3-29-10)~~
- ~~ii. Description of prescription medication. (3-29-10)~~
- ~~iii. Total amount of expenses. (3-29-10)~~
- ~~iv. Patient name. (3-29-10)~~
- ~~v. Any amount covered by other insurance, if applicable. (3-29-10)~~
- ~~04. Director's Review of the Petition and Reimbursement Request. The director shall review the petition and reimbursement request, and may ask for additional information or documentation from the petitioner to assist the director in reaching a decision on the petition and reimbursement request. (3-29-10)~~
- ~~05. Director's Decision of the Petition and Reimbursement Request. The director shall approve or deny the petition and reimbursement request, and shall provide reasons for any denial within ten (10) business days after receipt of the petition or the receipt of requested information or documentation, whichever is later. (3-29-10)~~
- ~~06. Appeal of Denial. A petitioner may appeal the director's denial within thirty (30) days of the denial. The appeal shall state the reasons why the director's decision is in error. The appeal shall be reviewed by the Group Insurance Advisory Committee within thirty (30) calendar days of receipt of the appeal. (3-29-10)~~
 - ~~a. The Group Insurance Advisory Committee may review the appeal and make a decision on the basis of the information and documentation provided by the Medicare-eligible retiree or his Medicare-eligible dependent spouse, may request additional information or documentation, and may take written or oral testimony. (3-29-10)~~
 - ~~b. The Group Insurance Advisory Committee shall issue a written decision on the Medicare-eligible retiree's or his Medicare-eligible dependent spouse's appeal within ninety (90) days of the date of the appeal. (3-29-10)~~
 - ~~e. The Group Insurance Advisory Committee shall deny any appeal for any of the following reasons: (3-29-10)~~
 - ~~i. The individual is not Medicare-eligible. (3-29-10)~~
 - ~~ii. The individual has not yet retired from state employment. (3-29-10)~~
 - ~~iii. The Medicare-eligible retiree or the Medicare-eligible dependent spouse has not met all of the criteria described in Subsection 040.01 of these rules. (3-29-10)~~
 - ~~iv. The appeal is untimely or the original petition was submitted untimely. (3-29-10)~~
- ~~07. Subsequent Reimbursement Requests After Approval of Petition. A Medicare-eligible retiree or his Medicare-eligible dependent spouse, whose petition for prescription medication reimbursement has been approved by the director, may submit subsequent requests for reimbursement to the Office of Group Insurance, until the individual has received two thousand dollars (\$2000) for reimbursed prescription medication, per calendar year, under these rules. (3-29-10)~~
- ~~08. Reimbursement Considered Taxable Income. Any reimbursed prescription medication expenses by and through these rules are considered taxable income to the reimbursed party. (3-29-10)~~
- ~~041.—049. (RESERVED)~~